



## Final Regulation Agency Background Document

<b>Agency name</b>	State Board of Social Services
<b>Virginia Administrative Code (VAC) citation</b>	22 VAC 40 -141
<b>Regulation title</b>	Minimum Standards for Licensed Independent Foster Homes
<b>Action title</b>	Amend regulation as a result of periodic review
<b>Document preparation date</b>	Enter date this form is uploaded on the Town Hall

This information is required for executive review ([www.townhall.state.va.us/dpbpages/apaintro.htm#execreview](http://www.townhall.state.va.us/dpbpages/apaintro.htm#execreview)) and the Virginia Registrar of Regulations ([legis.state.va.us/codecomm/register/regindex.htm](http://legis.state.va.us/codecomm/register/regindex.htm)), pursuant to the Virginia Administrative Process Act ([www.townhall.state.va.us/dpbpages/dpb\\_apa.htm](http://www.townhall.state.va.us/dpbpages/dpb_apa.htm)), Executive Orders 21 (2002) and 58 (1999) ([www.governor.state.va.us/Press\\_Policy/Executive\\_Orders/EOHome.html](http://www.governor.state.va.us/Press_Policy/Executive_Orders/EOHome.html)), and the *Virginia Register Form, Style, and Procedure Manual* ([http://legis.state.va.us/codecomm/register/download/styl8\\_95.rtf](http://legis.state.va.us/codecomm/register/download/styl8_95.rtf)).

### Brief summary

*In a short paragraph, please summarize all substantive changes that are being proposed in this regulatory action.*

This regulation allows parents and legal guardians to retain the custody of children placed in an independent foster home, increases the length of time a child may remain in an independent foster home from 90 days to 180 days, and allows placement longer than 180 days in certain cases. Additionally, numerous health and safety standards are updated to increase the protections offered to children, Code of Virginia citations are revised to reflect the recodification of Title 63.2 of the Code, and editorial changes are made to improve clarity.

### Statement of final agency action

*Please provide a statement of the final action taken by the agency including (1) the date the action was taken, (2) the name of the agency taking the action, and (3) the title of the regulation.*

The State Board of Social Services approved the final regulation, 22 VAC 40-141-10 et seq., *Licensing Standards for Independent Foster Homes*, on August, 18, 2004.

## Legal basis

*Please identify the state and/or federal source of legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including Code of Virginia citation and General Assembly bill and chapter numbers, if applicable, and (2) promulgating entity, i.e., the agency, board, or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.*

Section 63.2-217 of the Code of Virginia grants the State Board of Social Services (board) the authority to adopt regulations as necessary or desirable to carry out Title 63.2. Section 63.2-1734 of the Code of Virginia states that the board shall adopt regulations for the activities, services, and facilities to be employed by persons and agencies required to be licensed under Title 63.2 and that the regulations shall be designed to ensure that such activities, services and facilities are conducive to the welfare of the children under the custody or control of such persons or agencies. Independent foster homes are included in the definition of child welfare agencies as referenced in § 63.2-100 of the Code. The regulation is necessary to implement the required code provisions.

*Please explain the need for the new or amended regulation by (1) detailing the specific reasons why this regulatory action is essential to protect the health, safety, or welfare of citizens, and (2) discussing the goals of the proposal and the problems the proposal is intended to solve.*

The amendments are essential to protect the health, safety and welfare of children who are temporarily placed by their parents or legal guardians directly into a foster home, independent of local departments of social services or a licensed child-placing agency. This regulation incorporates statutory changes in the Code of Virginia and includes amendments that allows parents and legal guardians the option to retain custody of their child during the child's temporary placement in an independent foster home, strengthens the safety protections, distinguishes between the needs of young children and adolescents, updates medical and background check requirements for providers, clarifies qualification requirements and the capacity of an independent foster home. The further purpose of the amendments includes prohibiting physical restraint techniques being used on children placed in independent foster homes and to include language regarding the responsibilities of the licensee.

## Substance

*Please identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. A more detailed discussion is required under the "All changes made in this regulatory action" section.*

Change the title of the regulation from "Minimum Standards for Licensed Independent Foster Homes" to "Licensing Standards for Independent Foster Homes."

The primary Code of Virginia citation changes in the proposed regulation are:

1. Updating necessary Code of Virginia references as a result of recodification;
2. Including a statement requiring sworn statements or affirmations and criminal record checks in addition to a search of the Child Protective Services Central Registry; and

3. Amending definitions to reflect changes in the Code of Virginia as a result of recodification.

Other changes include:

1. Providing for use of “placing agreements” in licensed independent foster homes as an option to an entrustment agreement, thereby allowing parents or guardians to retain legal custody during a child’s placement;
2. Introducing requirements for placing agreements and individualized service plans;
3. Amending the length of a child’s placement in an independent foster home to “not longer than 180 days” with an exception that placement may exceed 180 days for reasons of parental illness/recuperation or military deployment if that was the reason for the placement and the provider refers the child to the local department of social services to request an assessment of the care and custody of the child to determine if additional services or evaluations are necessary;
4. Deleting the exception to the experience and training requirements for licensed and registered family day care home providers and family day care homes approved by licensed family day care systems when providing foster care to children enrolled in the day care home;
5. Adding a statement that the licensee shall be responsible for the home’s day-to-day operation and for meeting licensing requirements;
6. Requiring the licensee, and any assistants left alone with children, be able to speak, read, and write in English sufficient to understand and carry out the responsibilities and requirements of the standards to ensure the care, safety and protection of the children;
7. Allowing the provider to complete initial foster parent orientation and training sessions offered by local department of social services and licensed child-placing agencies to meet the training requirements for the first six months of initial licensure as an independent foster home;
8. Requiring the provider, any assistants, and any other adults expected to be alone in the home with children to receive, prior to licensure or employment, certification in first aid and cardiopulmonary resuscitation and including “other adults expected to be alone in the home with children” among those required to maintain a current certificate in first aid and cardiopulmonary resuscitation;
9. Revising the medical requirements for the provider, assistants and household members to no longer require tuberculin skin tests for children and to permit assessments for the risk of tuberculosis infection and disease for providers, assistants, and adult household members, as appropriate; requiring subsequent screening or testing, as appropriate, every two years thereafter; and requiring an evaluation for any individual who comes in contact with a known case of tuberculosis or develops chronic respiratory symptoms;
10. Clarifying the maximum capacity of children in an independent foster home includes “any other children who reside in the home”;
11. Requiring drinking water to be available at all times unless prohibited by a physician’s order;
12. Including special diets prescribed by a dentist and recognizing and respecting established religious dietary practices observed by individual children;

13. Strengthening the transportation requirements to include providers not “knowingly” allowing children to be transported by any person who has driving violations that place the occupants of the vehicle at risk, and allowing for parents or legal guardians of a child placed in the independent foster home to be exempt from this requirement when transporting their own child unless it poses an immediate danger to the health and safety of that child; requiring providers to report subsequent driving violations to the licensing representative and provide a copy of the provider’s and assistant’s driving records upon licensure renewal;
14. Ensuring that first aid supplies are easily accessible to adults, but not to children under the age of 13; prescription and nonprescription medications are inaccessible to children under the age of 13; and allowing the providers to permit self-administration of medication by a child under certain circumstances;
15. Adding missing children, death of a child, or any placement outside of the foster home to the list of reportable incidents;
16. Prohibiting the use of physical restraint techniques on children in the independent foster home;
17. Distinguishing between the supervision requirements of young children and children with special needs and the supervision requirements for adolescents during the use of time-out or separation as a discipline technique;
18. Including additional physical accommodation requirements, e.g. bathroom and crib requirements, and
19. Adding home safety requirements that include, but are not limited to, listing poison control numbers by each telephone; placing child-resistant covers over all outlets when caring for children who are developmentally delayed to a preschool level; placing infants on their backs to sleep; prohibiting children who are under age 10 or who have motor or developmental delays from using the upper levels of a bunk bed; and immunization and other safety requirements for pets.
20. Including a statement that the individually planned interventions described in the foster care plans or individual service plans that are intended to reduce or ameliorate any diagnosed physical, mental or emotional disabilities should be performed by, in conjunction with, or under the written direction of a licensed practitioner.

## Issues

*Please identify the issues associated with the proposed regulatory action, including:*

- 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions;*
- 2) the primary advantages and disadvantages to the agency or the Commonwealth; and*
- 3) other pertinent matters of interest to the regulated community, government officials, and the public.*

*If the regulatory action poses no disadvantages to the public or the Commonwealth, please so indicate.*

---

The public is expected to benefit from this regulation. The regulation strengthens the protections offered to children who are temporarily placed by their parents or legal guardians directly into a foster home, independent of local departments of social services or a licensed child-placing agency. The proposed

amendments strengthen the authority and rights of parents by allowing them a mechanism to temporarily place their child in an independent foster home and still retain legal custody. This change enables the family to select whether temporarily “entrusting” a child to the provider or temporarily “placing” a child with a placing agreement best meets the family’s specific needs and circumstances.

The department does not anticipate any increase in the workloads of local departments of social services or the local juvenile and domestic relations court as a result of this regulation. The proposed amendments, while strengthening the protections to children, should not pose any unreasonable hardship to licensees.

The department sees no disadvantages to the public or the Commonwealth.

**Changes made since the proposed stage**

*Please describe all changes made to the text of the proposed regulation since the publication of the proposed stage. For the Registrar’s office, please put an asterisk next to any substantive changes.*

Section number	Requirement in proposed regulation	Proposed change in final regulation and rationale
130 C	First aid supplies shall include scissors, tweezers, sterile nonstick gauze pads, adhesive bandages in assorted sizes, a sealed package of alcohol wipes or antiseptic cleansers, a thermometer, a chemical cold pack if an ice pack is not available, first aid instruction manual or cards, an insect bite or sting preparation, one triangular bandage, current syrup of ipecac to be used only when instructed by the regional poison control center or child’s physician, flexible roller or stretch gauze, disposable nonporous gloves, and an eye dressing or pad.	<p>First aid supplies shall include scissors, tweezers, sterile nonstick gauze pads, adhesive bandages in assorted sizes, a sealed package of alcohol wipes or antiseptic cleansers, a thermometer, a chemical cold pack if an ice pack is not available, first aid instruction manual or cards, an insect bite or sting preparation, one triangular bandage, current activated charcoal and syrup of ipecac to be used only when instructed by the regional poison control center or child’s physician, flexible roller or stretch gauze, disposable nonporous gloves, and an eye dressing or pad.</p> <p>This change is based on recommendations from the Federal Drug Administration Fact Sheet to keep both activated charcoal and syrup of ipecac available in case of an accidental poisoning. Syrup of ipecac and activated charcoal should only be used on advice of Poison Control or the child’s physician.</p>
180 A	<p>The provider shall arrange for necessary services, as specified in the foster care service plan or individual service plan, and as recommended by a licensed physician or other professional working with the child, where applicable. These services may include but are not limited to:</p> <ol style="list-style-type: none"> <li>1. Professional evaluations and counseling;</li> <li>2. Educational services and tutoring; and</li> </ol>	<p>The provider shall arrange for necessary services, as specified in the foster care service plan or individual service plan, and as recommended by a licensed physician or other professional working with the child, where applicable. These services may include but are not limited to:</p> <ol style="list-style-type: none"> <li>1. Professional evaluations and counseling;</li> <li>2. Educational services and tutoring; and</li> <li>3. Transportation to necessary appointments and services.</li> </ol> <p>Note: Individually planned interventions intended to reduce or ameliorate any diagnosed physical, mental</p>

	3. Transportation to necessary appointments and services.	or emotional disabilities should be performed by, in conjunction with, or under the written direction of a licensed practitioner. Rationale: This sentence was added to address concerns regarding the level of services provided to children with special needs and to ensure that interventions are appropriate to the child's individual treatment needs. The independent foster home should not be used as a substitute for professional services.
200 N	Playpens, play yards, and portable cribs shall not be used for sleeping.	This was deleted. 22 VAC 40-141-190 A 4 was revised to read " a crib that meets current Consumer Product Safety Commission standards (16 CFR parts 1508 and 1509) shall be provided for infants and children not developmentally ready to sleep in a bed." Rationale: Portable cribs are defined in 16 CFR 1509 and must meet the criteria as stated. To ban portable cribs in another area would be confusing to inspectors and providers.
200 Q.	Providers shall instruct children on safe procedures to follow when in close proximity to animals or when feeding animals, and ensure hand washing after handling animals or animal waste.	Section has been renumbered to 200 P. Providers shall instruct children on safe and hygienic procedures to follow when handling, feeding or in close proximity to animals.  This change recognizes the independent foster parent's ability to instruct children in safe and hygienic practices as the individual circumstances warrant and is a result of a comment from the Department of Budget and Planning.

**Public comment**

*Please summarize all comment received during the public comment period following the publication of the proposed stage, and provide the agency response. If no public comment was received, please so indicate.*

<b>Commenter</b>	<b>Comment</b>	<b>Agency response</b>
Executive Director, child-placing agency	Expressed concern that the regulation does not require the care takers to provide case management services to the children and stated that case managers with proper degrees typically work in such settings to provide the day-to-day counseling and crisis management, write professional reports, and effectively implement the individualized treatment plans for the children. Commenter acknowledged the regulation is intended for homes that accept children directly from parents but stated that he believes that local	This regulation is intended to address only independent foster homes that accept children who are temporarily placed by their parents or guardians directly into the foster home, independently of local departments of social services or a licensed child-placing agency. For children placed into a specific home by a local department of social services or a licensed child-placing agency, the more stringent regulation would apply.  Additionally, the department suggests that children with special needs be placed in a treatment foster home that can provide the level of services and support that the individual child and family require and that to include only

	<p>departments of social services also place children with special needs in these homes and that some of these children require intense case management services, as required by the <i>Minimum Standards for Licensed Child-Placing Agencies</i>; 22 VAC 40-130-210 B (intake assessments), 22 VAC 40-130-210 C (social history requirements), 22 VAC 40-130-210 H (service plans in foster care) and 22 VAC 40-130-230 (narratives, quarterly summaries and service plans in the child's record).</p>	<p>the stricter case management requirements without limiting the capacity of the independent foster home does not serve the needs of the family or the child. Independent foster homes are regulated as an option to licensed child-placing agency- or locally approved- foster homes.</p> <p>However, this concern was addressed in the revised language in 22 VAC 40-141-180 A when wording was added that "individually planned interventions intended to reduce or ameliorate any diagnosed physical, mental or emotional disabilities should be performed by, in conjunction with, or under the written direction of a licensed practitioner."</p>
--	---	--

**All changes made in this regulatory action**

*Please detail all changes that are being proposed and the consequences of the proposed changes. Detail new provisions and/or all changes to existing sections.*

<b>Current section number</b>	<b>Proposed new section number, if applicable</b>	<b>Current requirement</b>	<b>Proposed change and rationale</b>
Title		"Minimum Standards for Licensed Independent Foster Homes"	<p>"Licensing Standards for Independent Foster Homes"</p> <p>Rationale: Deletes the word "minimum" and reflects the department's position that these standards are required to ensure the safety of children.</p>
Table of Contents			<p>Table of Contents is changed and expanded.</p> <p>Section entitled "Child Abuse or Neglect Record" has been changed to "Background Checks" to more accurately reflect the requirements of the section.</p> <p>Section entitled "Placing Agreement Requirements" has been added and section entitled "Temporary Entrustment Agreements" has been changed to "Temporary Entrustment Agreement Requirements."</p> <p>Rationale: This change was necessary to incorporate statutory changes and proposed amendments.</p>

<p>10</p>		<p>Definition of “Child Protective Service Central Registry”</p> <p>Definition of “cooling device”</p> <p>Definition of “Department’s representative”</p> <p>Definition of “Commissioner”</p> <p>Definition of “good character and reputation”</p> <p>Definition of “temporary entrustment agreement”</p> <p>Definition of “placing agreement”</p>	<p>Deleted. Rationale: The definition is unnecessary because it is explained within the text of the regulation.</p> <p>Deleted. Rationale: The definition is unnecessary because it is used only once in the regulation and is explained within the text of the regulation.</p> <p>Deleted. Rationale: The meaning has been included in the revised definition of “Commissioner” and is therefore unnecessary.</p> <p>Changed to mean the Commissioner of the Department of Social Services and to include his designee or authorized representative and deletes reference to the Commissioner as “the Director of the Virginia Department of Social Services”. Rationale: The definition matches the definition of “Commissioner” in the Code of Virginia.</p> <p>Changed to include that the individual is suitable and able to guide children and clarifies that references are character and reputation references. Rationale: Improves the clarity of the definition.</p> <p>Changed to reflect the change in the length of time a child may be placed in the independent foster home. Rationale: Definition is consistent with the definition of “temporary entrustment agreement” in other regulations and to reflect the changes in the proposed amendments.</p> <p>This definition has been added to describe an alternative to an entrustment agreement that allows the parents or legal guardian to place a child in the independent foster home and still retain custody. Rationale: Specifies the requirements for a placing agreement as subsequently used in the regulation.</p>
-----------	--	--	---

20		Legal authority	<p>Amended to incorporate placing agreements.                  Rationale: Establishes “placing agreements” as an alternative to entrustment agreements for placing a child in an independent foster home and gives parents a choice to retain custody when temporarily placing a child directly into an independent foster home.</p>
30 A		<p>Establishes length of time that a child may be placed in an independent foster home as 90 days and mandates that if a child cannot be returned to the parent in less than 90 days that the provider petition the local juvenile and domestic relations court within 30 days of placement to request and assessment of the care and custody of the child.</p>	<p>This section has been changed to allow a child to remain in an independent foster home for up to 180 days. Additionally this section has been reorganized to better explain when a provider must petition the local juvenile and domestic relations court for children who are placed in the home by a temporary entrustment agreement and do not return to their family within the initial 90 days of placement. An exception has been added to allow for the extension of the child’s placement in the independent foster home due to the military deployment or illness/recuperation of the parent if the local department of social services is advised of the situation and a referral is made to determine if additional services or assessments are necessary. Rationale: The section has been reorganized to improve readability and clarity. The change in length of stay is designed to provide an additional option for families.</p>
30 C	30 D	<p>Allows an exception in the experience and training requirements of an independent foster parent when the applicant is a licensed or registered family day home provider or a provider that has been approved by a family day system when providing foster care to children enrolled in the day care home.</p>	<p>The exception is deleted.                  Rationale: The existing language was not effective since children are no longer “enrolled” in the day care once they become a member of the household. Furthermore, it does not offer the necessary protection to children if experience and training requirements related to working with children with special needs are lowered based on a provider’s history with a child.                   “D” has been added to state that the provider shall be responsible for the home’s day-to-day operation and for meeting licensing requirements.                  Rationale: This addition clarifies the responsibilities of the licensee and is consistent with other regulations.</p>

<p>40</p>		<p>Existing section title “Child abuse or neglect record” has been changed to “Background checks”</p>	<p>The section title has been changed to reflect the Code requirements for background checks for child welfare agencies.                  Rationale: The new section title encompasses the Code requirement for the applicant, provider, assistants, adult household members, and any other adult who is involved in the day-to-day operation of the independent foster home or will be alone with, in control of, or supervising one or more children placed in the home, to have a background check.</p>
<p>40 A.</p>		<p>Requires that the applicant for licensure, the provider, the assistant, and adult household members receive and provide to the licensing representative the results of a search of the Central Registry and not have a founded disposition for child abuse or neglect.</p>	<p>Adds “any other adult who is involved in the day-to-day operations of the independent foster home or will be alone with, in control of, or supervising one or more children placed in the independent foster home to the list of persons required to have a background check which shall include:</p> <ol style="list-style-type: none"> <li>1. The results of a criminal history record check conducted by the Virginia State Police through the Central Criminal Records Exchange and that the individual shall not have an offense as described in § 63.2-1719 of the Code of Virginia;</li> <li>2. The results of a search of Virginia’s Child Protective Services central registry and shall not have a founded child abuse or neglect record; and</li> <li>3. A sworn disclosure statement or affirmation disclosing whether the person has a criminal conviction or is the subject of any pending criminal charges within or outside the Commonwealth and whether the person has been the subject of any founded complaint of child abuse or neglect within or outside the Commonwealth.</li> </ol> <p>Rationale: The requirements of a background check are outlined and explained. The change is necessary to comply with Code requirements.</p>

	60 A	Requires that the provider and any assistants left alone with children be able to speak, read, and write in English sufficient to understand and carry out the responsibilities and requirements of this chapter to ensure the care, safety and protection of children.	Adds the requirement that providers and persons left alone with children be able to communicate, read and write in English. Rationale: Ensures that the provider and any assistants left alone with children are able to communicate with licensing staff and emergency personnel should the need arise and read label directions to ensure medications are properly administered.
60 A	60 B	Provider and assistant shall be knowledgeable about and physically and mentally capable of providing care to children.	Moves 60 A to 60 B. Rationale: Reorganizes this section for clarity.
60 B	60 C	Requires the provider and assistant be able to maintain positive and constructive relationships with children and respect for families.	Moves 60 B to 60 C Rationale: Reorganizes this section for clarity.
60 C	60 D	Requires the provider and assistant be capable of handling emergencies.	Moves 60 C to 60 D. Rationale: Reorganizes this section for clarity.
60 D		Required provider and assistant be able to communicate and follow instructions	Deleted. Rationale: This information has been included in the revised 60 A and is no longer necessary.
60 G		Requires provider and assistant to respect the confidentiality of the child and family.	The reference to § 63.1-209 has been changed to § 63.2-104 of the Code of Virginia. Rationale: This change was necessary as a result of recodification.
70 A		Provider shall complete an initial foster parent orientation and training session within the first six months of initial licensure. Requires 20 hours of related training annually.	Clarifies that when initial foster parent orientation training is available from the Department of Social Services, a local department of social services, or from a licensed child-placing agency it will meet the requirement for training. Rationale: Broadens the potential availability of training rather than limiting it to only the training that may be provided by the Department of Social Services.  The requirement for 20 hours of annual training has been moved to a separate section. Rationale: This change improves clarity.
	70 B	Requires the provider, assistant, and any other adult expected to be alone in the home with children to receive, prior to licensure or employment, certification in first aid and CPR.	Adds the requirement for the provider, assistants, and other adults expected to be alone with children receive certification prior to licensure or employment. Rationale: Strengthens the protections offered to children in care by ensuring

			that a person trained in first aid and CPR techniques is available in case of emergency.
70 B	70 C	Requires that the provider, assistant, and any other adult expected to be alone with children maintain current certifications in first aid and CPR from approved source.	Moves B to C and adds the requirement that “any other adult expected to be alone with children” be included in those required to maintain current certification. It also adds the American Heart Association to the list of approved sources for training. Rationale: This change strengthens the protections offered to children in care by ensuring a person trained in first aid and CPR is available during an emergency.
	70 D	Requires the provider attend at least 20 hours of related training each year and maintain documentation of training attended.	Separates annual training from initial foster parent training and removes confusion that annual training is only required “when such training is available.” Rationale: Improves clarity.
80 A		Requires applicant, assistants, and each permanent member of the household obtain a tuberculin skin test indicating the absence of tuberculosis in a communicable form.	Deletes the requirement for each permanent member of the household to be tested for tuberculosis. The section is changed to require the applicant, assistant, and each “adult” member of the household to undergo an assessment for risk of tuberculosis infection and disease. The applicant shall provide documentation from the health department, a physician, or a physician’s designee that each individual is “free from tuberculosis in a communicable form.” Individuals needing additional testing to determine the absence of tuberculosis in a communicable form shall obtain a tuberculin skin test. Rationale: The requirement was changed to allow tuberculosis assessment since Virginia Department of Health Guidance allows an assessment for risk of tuberculosis infection as acceptable evidence of freedom from tuberculosis in a communicable form. The existing requirement for tuberculin skin testing remains for individuals that may fall into a higher risk group. In addition, the Center for Disease Control and Prevention (CDC) has determined that children in high risk-groups may benefit from screening but that most children are not members of a high-risk group and could be deleted from the requirement unless the Health Department recommends it. This additional measure is still included in 80

			D and F.
	80 E		<p>This section was added to require subsequent tuberculosis screening or testing, as appropriate, every two years thereafter for providers, assistants, and adult household members.</p> <p>Rationale: This addition strengthens the protections offered to children and meets the existing requirements to comply with other types of care that are provided in family homes.</p>
	80 F		<p>This section was added to require that “any individual” who comes in contact with a known case of tuberculosis or develops chronic respiratory symptoms be evaluated to rule out tuberculosis in a communicable form.</p> <p>Rationale: Strengthens the protection offered to children by requiring any individual who comes in contact with a known case of tuberculosis or develops chronic respiratory symptoms be evaluated. In the case of active tuberculosis being discovered, the Health Department guidelines and recommendations and section 80 D (removing individuals from contact, and where indicated, food served to children until a licensed physician certifies that the risk to children has been eliminated or substantially reduced) continue to protect children who may be at risk.</p>
85		Title of section “Temporary Entrustment Agreements”	<p>Title has been changed to “Temporary Entrustment Agreement Requirements</p> <p>Rationale: This section now distinguishes between the requirements for temporary entrustment agreements and placing agreements.</p>
85 A		Requires that a temporary entrustment agreement be received on every child placed directly by the child’s parent or guardian into the independent foster home.	<p>The word “written” is inserted prior to temporary entrustment agreement and the option to place children via a “placing agreement” has been added. In addition, a requirement has been added that “prior to entering into a temporary entrustment agreement, the provider shall consider the needs of the child and whether the home can meet those needs, the needs of any other children residing in the home, and the impact of the individual child joining the household.</p> <p>Rationale: Adding the word “written” clarifies that a verbal agreement is not acceptable. The placing agreement provides an additional option for parents or guardians needing to temporarily place</p>

			a child in an independent foster home. The requirement for providers to consider the needs of the child, as well as the needs of any other children residing in the home, and the dynamics of another child in the home was added to reduce potential disruptive situations and ensure the placement is appropriate and beneficial.
85 B		Temporary entrustment agreements shall be for placements less than 90 days and if the provider is aware at the time of admission that the placement will extend beyond 90 days, establishes time frames for petitioning juvenile and domestic relations court for approval of the entrustment agreement.	The length of placement under a temporary entrustment agreement is changed from 90 to 180 days. Rationale: Changes the existing length of stay to 180 days and provides additional choices for parents, for example in the case of military deployments.
85 E		Parents or guardians may request the return of their child at any time prior to the 90 <sup>th</sup> day of placement without the courts approval.	The wording is changed to read “parents or guardians may request the return of ‘a’ child prior to the 90 <sup>th</sup> day of placement without the courts approval.” Rationale: Editorial change only.
	85 G		The requirement for providers to file a foster care plan with the local juvenile and domestic relations court when petitioning for approval of an entrustment agreement has been added. Rationale: Section 16.1-277.01, of the Code of Virginia, requires that a licensed independent foster home, as a child welfare agency, file a foster care plan with the local juvenile and domestic relations court when petitioning for the approval of an entrustment agreement. The foster care plan shall meet the requirements established in §16.1-281 of the Code of Virginia. Adding this section ensures that the provider is aware of the Code requirements regarding entrustment agreements and filing foster care plans.
	87		Adds a section entitled Placing Agreement Requirements Rationale: It was necessary to separate the placing agreements from temporary entrustment agreements for clarity and readability.
	87 A – E		Subsections A-E have been added to detail the requirements for the written placing agreements which allow the child’s parents or guardians to place a child in an independent foster home for

			<p>up to 180 days and still retain legal custody. Subsection B requires the provider to contact the local department of social services if it appears that the placement will exceed 179 days and request an assessment of the child and an evaluation of services needed and to determine if a petition to assess care and custody of the child should be filed in the local juvenile and domestic relations court. Subsection B details the information to be contained in a written placing agreement. Subsections C and D state that the placing agreement may not extend beyond the child's 18<sup>th</sup> birthday and that the parent may request the return of a child at any time prior to the 180<sup>th</sup> day of the agreement and the agreement shall be considered revoked at the parents' or guardians' request. Subsection E states that subsequent placing agreements for the same child are considered extensions and that whenever a child has been in the independent foster home for a total of 180 days, the provider shall contact the local department of social services and request an assessment of the child and evaluation of services needed and to determine if a petition to assess care and custody of the child should be filed in the local juvenile and domestic relations court.</p> <p>Rationale: The addition of placing agreements as an alternative to temporary entrustment agreements allows the parent to choose between giving legal custody of the child to the independent foster parent or retaining legal custody and placing the child in the home. Requiring the provider to contact the local department of social service if a child's placement exceeds 180 days prevents children from being placed in a short-term, temporary placement for a lengthy period of time without consultation and potential oversight from the local department of social services. Treating subsequent placing agreements as extensions of the initial placing agreement ensures that children do not remain in the placement for longer than 180 days without consultation with, and potential oversight from, the local departments of social services or juvenile</p>
--	--	--	---

			and domestic relations court.
90 B		Requires that a responsible adult be available to substitute in case of an emergency and that the name, address, and telephone number be documented.	The requirements for a substitute provider have been changed to include requiring the provider maintain a signed statement of agreement that the person has agreed to serve as a substitute. Rationale: Having a signed statement of agreement ensures that a person has been identified as the substitute in case of emergency.
100 B		The maximum number of children in an independent foster home shall be eight, including the children of the provider and the assistant under age 13 with the condition that an exception may be granted by the licensing authority for sibling groups which may cause the home to exceed the licensed capacity.	The requirement to include the assistant's children has been deleted unless such children actually reside in the home. The subsection was changed to read that the maximum number of children in an independent foster home shall be eight, including children of the provider and "any other children who reside in the home" with the possibility of an exception being granted if necessary to maintain sibling groups. Rationale: The new requirement ensures that all children residing in the home, including any children that may be placed by a local department of social services or a child-placing agency, will be included when determining the capacity of the home.
100 B 1		Adult to child ratio shall be one to four for preschool children and children with special needs during regular waking hours as indicated by a licensed physician or a licensed clinical psychologist.	This subsection has been changed to indicate that the adult caretaker to child ratio shall be one to four for preschool children during regular waking hours and children with special needs, "as indicated by a licensed physician or licensed clinical psychologist," during the regular waking hours. Rationale: Re-worded for clarity and readability.
110 A		Diet for children shall be well-balanced and appropriate to the daily nutritional needs of each child. Special diets shall be provided as prescribed by a physician for individual children.	The dietary requirements have been changed to include special diets prescribed by a dentist and for observing established religious dietary practices of individual children. Rationale: The additional requirements ensure that specialized diets ordered by a dentist will be available when necessary. The inclusion of special religious dietary practices ensures that a child's established religious dietary practices are respected.
	110 C		Requirement has been added that drinking water be available at all times, unless prohibited by a physician's order. Rationale: Ensures that drinking water is available at all times.

	110 D		<p>Statement has been added that normal activities of daily living such as meals appropriate to the child’s nutritional needs, time for sleep and rest appropriate to the child’s age, bathing etc., shall be opportunities for teaching and guiding behavior and the provider’s actions shall not be extreme, unusual, or abusive.</p> <p>Rationale: Establishes that activities of daily living are essential and that any attempts to change a child’s behavior shall be treated as an opportunity to teach and guide the child not punitive, reactive measures.</p>
120 C		<p>Provider and assistant transporting children shall not have driving violations on file with the Department of Motor Vehicles related to driving under the influence of alcohol or drugs, reckless driving, or any offense which places other occupants of the vehicle at risk, within five years prior to the application and a copy of the provider’s and assistant’s driving record shall be provided to the licensing representative.</p>	<p>This subsection has been changed to require the provider, and any assistants who transport children, maintain an acceptable driving record as previously outlined and not have driving violations on file with the Department of Motor Vehicles related to driving under the influence of alcohol or drugs, reckless driving or any other offense which places other occupants of the vehicle at risk within five years prior to the application, and thereafter as a condition of continued licensure. Copies of the provider’s and the assistant’s driving record shall be provided to the licensing representative upon application and at the time of submitting a renewal application. Driving violations as described in this subsection shall be reported to the licensing representative with 24 hours.</p> <p>Rationale: This section has been changed to help ensure that children are not placed at risk while being transported by the independent foster home provider or assistant.</p>
	120 D		<p>Subsection added stating that the provider shall not knowingly allow children to be transported by any person who has driving violations on file with the Department of Motor Vehicles as outlined in 120 C. Exception included that this requirement does not prohibit a parent or legal guardian from transporting their own child unless it poses an immediate danger to the health and safety of the child.</p> <p>Rationale: This addition of this requirement increases the protection for children without posing an unreasonable hardship on the provider. For example,</p>

			<p>the provider may reasonably be aware that a close friend or family member, who may transport children, has a driving violation on file. This does not extend to a bus driver or those with more remote contact with the child. The Code places similar responsibility on operators of family day homes in the mandate that it be unlawful for any person to operate a family day home if he knows that any other person who resides in the home has been convicted of certain offenses. This change is designed to increase the protections offered to children. The exception for a child’s parents or guardian to transport their child even with driving violations on file with the Department of Motor Vehicles “unless it poses and immediate danger to the health and safety of the child” does not infringe upon a parent’s right to visit with their child or make decisions about their child as a result of past driving violations. However, it does still offer protection to children who may be placed in immediate danger, e.g. a parent who is under the influence of alcohol or other drugs.</p>
130 B		<p>The provider shall have first aid supplies easily accessible to adults in the home, but not accessible to children.</p>	<p>The requirement to have first aid supplies easily accessible to adults but not accessible to children has been changed to read “not accessible to children under the age of 13.”  Rationale: The change recognizes the unique character of an independent foster home in that it may provide care to older adolescents not just young children. If first aid supplies were kept in an area that made them inaccessible to older adolescents, potentially they would have to be locked and this does not ensure easy accessibility for adults. The Department does not believe that this presents any lessening of the protection for children. Similar regulations for other care settings such as family day homes require that first aid supplies be inaccessible to children; however “child” means an individual under 13 years of age.</p>
130 C		<p>Details the required first aid items to be maintained in the independent foster home.</p>	<p>Activated charcoal was added to the list of required items.  Rationale: This change is based on recommendations from the Federal Drug Administration Fact Sheet to keep both activated charcoal and syrup of ipecac</p>

			available in case of an accidental poisoning. Syrup of ipecac and activated charcoal should only be used on advice of Poison Control or the child’s physician.
130 G		Provider shall give prescription drugs to children in accordance with order signed by a licensed physician or an authentic prescription label and shall keep all prescription and nonprescription medications locked and stored as instructed.	The requirement to keep all prescription and non-prescription medication locked has been changed to “inaccessible to children under the age of 13.” Rationale: This change recognizes the unique character of an independent foster home in that it may provide care to older adolescents not just young children. The Department does not anticipate that changing the requirement to “inaccessible to children under 13” lessens the protections of young children since the medication has to be kept inaccessible to them. This is similar to the requirements for family day homes.
130 G 1		Requires daily documentation of all prescription and nonprescription medication administered to a child in care.	Exception has been added that does not require the provider to record the amount of diaper ointment or sunscreen applied. Rationale: The amount of sunscreen and diaper ointment may vary at each usage and estimates of usage each time is of little value.
130 H	130 I	Requires the provider report all major illness, injuries, and accidents to the child’s parent and to the licensing representative within 24 hours.	This subsection has been moved and additional reportable incidents such as a missing child, the death of a child, and any placement of a child outside of the foster home, have been added. If the provider is unable to contact the parent or guardian, attempted contacts shall be documented. Rationale: Increasing the list of reportable incidents strengthens the protections offered to children and their families.
	130 H		The provider may permit self-administration of medication by a child in care under certain conditions. Rationale: To self-administer medication the child must be physically and mentally capable of properly taking the medication without assistance, the provider must have a written statement from the parents or the physician documenting the child’s capacity to take the medication without assistance, and the provider shall ensure that the child’s medication, and any other medical supplies, are not accessible to children under the age of 13. Allowing children to self-administer medication in certain circumstances does not retard development and skills that

			<p>may already be present, e.g. an asthmatic child is much more aware of when they need to use their inhaler and can quickly assess and treat the situation to avoid a potentially more dangerous situation. A child's temporary placement in an independent foster home will not interfere with previous decisions made by the child's parents, legal guardian, or physician in determining that they are able to self-administer medication.</p>
130 I	130 J	<p>The provider shall receive written authorization for emergency medical care for each child.</p>	<p>This requirement has been moved and expanded to include written authorization for "routine" care and to include "dental care" in addition to medical care. Rationale: Ensures that a child will be able to receive medical and dental care as needed.</p>
150 A		<p>Discipline shall be constructive in nature and emphasize positive approaches to managing the child's behavior. The provider shall explain the rules of conduct and the behavior management approach to each child who is old enough to understand.</p>	<p>The phrase "rules of conduct" has been changed to "house rules and expectations." A sentence has been added stating the provider shall establish rules and expectations that encourage and teach desired behaviors and discourage undesired behavior. Rationale: The additional sentence and replacing the phrase "rules of conduct" more accurately reflects the parenting role of the provider and can also relate to the goals established for the child.</p>
150 B		<p>Prohibits physical punishment, rough play, or severe disciplinary action administered to the body such as, but not limited to, spanking, roughly handling a child, shaking a child, forcing a child, to assume an uncomfortable position, restraining to restrict movement through binding or tying, enclosing in a confined space, or using exercise as punishment.</p>	<p>Adds "striking or hitting with a part of the body or an implement, pinching and pulling" a child to the list of prohibited actions. Rationale: Strengthens the protections offered to children temporarily placed by their parents in an independent foster home.</p>
150 C		<p>Physical restraint shall not be used unless the provider has received training from a source approved by the department in crisis intervention and physical restraint techniques.</p>	<p>Use of physical restraint has been prohibited. A definition of "physical restraint" has been included in the section to distinguish physical restraint from commonly accepted parenting practices such as holding a child back from entering the path of an oncoming car or to prevent falling, etc. Rationale: This change strengthens the protection offered to children and their families. The Department is advocating that children requiring physical restraint</p>

			as a behavioral intervention may be better served in locally approved foster home or a treatment foster home that is approved by a child-placing agency.
150 E		When separation or time-out is used as a discipline technique, it shall be brief and appropriate to the child's developmental level and circumstances. The child who is separated from others shall be in a safe, lighted, and well-ventilated space; and shall be within hearing and vision of the provider or assistant at all times. Children shall not be placed in time-out for periods of time exceeding one minute for each year of age and time-out shall not be used for children under the age of two.	Clarification has been added regarding the levels of supervision necessary based on the age and needs of an individual child. The change would maintain sight and sound supervision for children under the age of 13 or those diagnosed with special needs. However, children age 13 and older would be within hearing or vision of the provider or assistant at all times when separated from others for disciplinary reasons. Prohibits placing children under the age of 13 or those with special needs in time-out for periods to time exceeding one minute for each year of age. Rationale: Increases the options available to providers working with older children and still maintains safety protections for all children.
170		Provider shall immediately report any suspected abuse and neglect of any child in care to child protective services and the licensing representative and comply with § 63.1-248.3 of the Code of Virginia.	Code citation has been changed to § 63.2-1509. Rationale: This change updates the code citations as a result of recodification.
180 A		The provider shall arrange for necessary services, as specified in the foster care service plan and as recommended by a licensed physician or other professional working with the child, where applicable.	The provision for services to be specified in an individualized service plan has been added for those children placed by a placing agreement to ensure a written plan of services for all children. A statement that "these services may include, but are not limited to: <ol style="list-style-type: none"> <li>1. Professional evaluations and counseling;</li> <li>2. Educational services and tutoring; and</li> <li>3. Transportation to necessary appointments and services has been added.</li> </ol> A note has been added that "individually planned interventions intended to reduce or ameliorate any diagnosed physical, mental or emotional disabilities should be performed by, in conjunction with, or under the written direction of a licensed practitioner. Rationale: This revision ensures that children placed in the home under a placing agreement have the same access to services as children with a

			<p>foster care plan and ensures equal protections for children regardless of the placing arrangement.</p> <p>The note has been added to address the services for children with special needs and to ensure that interventions are appropriate to the child's individual treatment needs.</p>
180 D		<p>In accordance with § 16.1-281 of the Code of Virginia, the independent foster home, as a licensed child-welfare agency, shall prepare and submit to the local juvenile and domestic relations court a foster care service plan on every child (i) within 30 days of signing the child's entrustment agreement for placements of 90 days or more, or (ii) within 60 days of signing the entrustment agreement for placements of less than 90 days, unless the child is returned to the child's parents or guardians within 60 days of placement in the independent foster home. The plan shall include certain requirements.</p>	<p>This subsection has been revised to clarify that foster care service plans are only applicable for children "entrusted to the provider by an entrustment agreement." The provisions and requirements for an individualized service plan are detailed in another section.</p> <p>Rationale: The revision is for clarity only.</p>
180 E	180 G	<p>In accordance with federal and state law, the provider shall ensure that the child's health and safety are the paramount concern throughout the placement, case planning, service provision, and review process.</p>	<p>This subsection was moved and given a new citation after individualized service plans were added for children placed under a placing agreement.</p> <p>Rationale: Improves clarity and readability.</p>
	180 E		<p>Requirements for an individualized service plan to be prepared by the provider, with the assistance of the parents or legal guardians, for children placed in the independent foster home under a placing agreement. The individualized service plan shall be prepared at the time of admission and shall outline the services needed and those that will be provided to the child and his family and identify goals and objectives designed to reunite the child with his family. Copies of the child's individualized service plan shall be provided to the parents or legal guardians, to the child, if age 13 or older or upon the child's request, and a copy filed in the child's record. The</p>

			<p>individualized service plan shall describe:</p> <ol style="list-style-type: none"> <li>1. The reasons why the child is placed in the independent foster home;</li> <li>2. A summary of the child's situation at the time of placement in relation to the child's family, including a statement of the child's health and educational status;</li> <li>3. A description of the child's needs;</li> <li>4. The goals for the child, including the projected length of placement in the independent foster home;</li> <li>5. The programs, care, services, and other means of support that the independent foster home will offer or the arrangements for the child and the child's parent or guardian to provide services or supports;</li> <li>6. Projected dates for completion of services provided or arranged for the child;</li> <li>7. Projected level of involvement of the child's parents or guardians and visitation arrangements;</li> <li>8. Where appropriate for children age 16 or older, the programs and services that will help the child prepare for independent living.</li> </ol> <p>Rationale: The requirements for preparing an individualized service plan for children placed by a placing agreement have been added. The requirements for individualized service plans, while different from foster care plans, state that the plan must address the services needed and those that will be provided to the child, describe why the child is in placement, include a summary of the child's situation at the time of placement, include a statement regarding the child's health and educational status; describe the child's needs; list goals; indicate a projected length of placement; describe any programs and supports offered to the child; describe the level of projected involvement of the child's parents or guardians and visitation arrangements; and, where appropriate, describe any programs or services to prepare a child age 16 or older to live independently. This ensures that the</p>
--	--	--	--

			<p>provider will work with the child’s parents or guardians at admission to identify goals and objectives that are designed to reunite the child with his family since the placement is designed to be temporary. It further ensures that children placed in the home under a placing agreement have the same access to services as children with a foster care plan and ensures equal protection for children regardless of placing arrangement.</p>
	180 F		<p>Subsection has been reorganized and the revised 180 F requires that individualized service plans be updated at least every 30 days.  Rationale: Ensures that children placed in the home under a placing agreement have the same access to services as children with a foster care plan. Ensures equal protection for children regardless of the placing arrangement.</p>
180 F	180 H	<p>If consistent with the child’s health and safety, the plan shall be designed to support reasonable efforts which lead to the return of the child to his parents or guardians within the shortest practicable time, which shall be specified in the plan.</p>	<p>Inserts “foster care” in front of “plan” and adds the phrase “or individualized service plan” shall be designed to support reasonable efforts to return the child to his parents or guardians. The word “practicable” has been changed to “feasible.”  Rationale: The changes incorporate both foster care plans and individualized service plans are to be designed with the same goal of reuniting the child with his parents or guardians. The word “feasible” was inserted as an editorial change to improve readability.</p>
180 G	180 I	<p>If the provider determines that it is not reasonably likely that the child can be returned to the child’s prior family with a practicable time, consistent with the best interests of the child, and in a separate section of the plan, the provider shall:</p> <ol style="list-style-type: none"> <li>1. Describe the reasons for this conclusion; and</li> <li>2. Determine and describe the opportunities for the court to consider placing the child with a relative or for the court to refer the child and the child’s family to the local department of social services for further services and</li> </ol>	<p>Subsection G has been moved to subsection I and the words “foster care” have been inserted in front of “plan” and the phrase “or individualized service plan” has been included to accurately distinguish between the two types of plans. The word “practicable” has been changed to “feasible.”  Rationale: These changes incorporate both foster care plans and individualized service plans with the same requirements to be met if the provider determines that it is not reasonably likely that the child can be returned to the child’s prior family. The word “practicable” was changed to “feasible” as an editorial change to improve readability.</p>

		permanency planning.	
180 H	180 J	For children to be in care with the independent foster home for longer than 90 days, the provider shall submit the child's foster care plan at the time of petitioning the local juvenile and domestic relations court for approval of the entrustment agreement.	Adds the requirement that the provider submit individualized service plans or the foster care plan, whichever is appropriate, at the time the provider petitions the local juvenile and domestic relations court to assess care and custody of a child placed in the independent foster home if the child is not returned to the parents or guardians within 180 days of placement. Rationale: Ensures that the provider informs the court of the child's needs and goals during the placement in order to assist the court in determining care and custody if the child is not returned to the parents or guardians within 180 days of the placing agreement being signed and a petition to the court is warranted.
180 I	180 K	The provider shall participate in all court hearings involving the child's entrustment, service plans, and custody as long as the child is placed in the independent foster home.	Subsection I has been moved to subsection K and requires that the provider participate in all court hearings involving the child for as long as the child is placed in the independent foster home. Rationale: Expands the required participation from only the court hearings involving a child's entrustment agreement, service plan, or custody to all court hearings.
180 J	180 L	Provider shall include the child whenever possible and appropriate to the child's age, the parents or prior guardians of the child, and professionals involved with the child in the development of the foster care service plan.	The words "and development" have been inserted after age to read "shall include the child whenever possible and appropriate to the child's age and development" and the words "or individualized service plan" have been added after foster care service plan. Rationale: The changes take into account a child's development may not equate to his age and that pertinent individuals should be involved in both the development of foster care service plans or individualized service plans.
180 K	180 M	The provider shall follow the requirements of § 16.1-282 related to the review of the foster care review.	This subsection has been moved.
190 A 3		Indoor bathing and toilet facilities in good working order with a door for privacy.	The requirement for indoor bathing and toilet facilities has been expanded to require at least one toilet, basin and tub or shower to be available for every eight persons. Rationale: The revision establishes a consistent standard to be used in determining capacity based on the facilities of the home. The requirement

			for one toilet, basin and tub or shower to be available for every eight persons has been previously established in other regulations involving the Department of Social Services.
190 A 4		A bed for each child and sufficient bedding to ensure cleanliness shall be available to each child. A crib shall be provided for infants. Exception: Two siblings of the same sex may occupy a double bed.	<p>“Infant” means a child from birth up to 16 months of age. The regulation has been strengthened to provide cribs for infants and “children not developmentally ready to sleep in a bed.” The requirement that cribs meet current Consumer Product Safety Commission standards (16 CFR Parts 1508 and 1509) has been added. Rationale: This strengthens the protections available to children by ensuring that cribs that do not meet current safety standards not be used in independent foster homes. The proposed change does not require that providers necessarily purchase new cribs but that the provider is knowledgeable when determining if a child’s crib would be appropriate for use in the independent foster home. The provisions for “non-full-size” baby cribs does include some portable cribs (designed so that it can be folded or collapsed without disassembly, to occupy a volume substantially less than the volume it occupies when in use), crib-pens, undersize and oversize cribs. These same requirements are currently effective in licensed family day homes to help ensure a safe sleeping environment for children. The requirements for full-size and non-full-size cribs and instructions for obtaining information on cribs will be made available to providers by licensing staff. This should not be a concern for existing providers since they do not serve infants. Any new providers would have the opportunity to review the requirements for cribs prior to licensure and work with a licensing representative to ensure that any items purchased comply with the regulation.</p>
190 B		All rooms used by children shall be heated to at least 68° F in winter, dry and well-ventilated. A child-safe cooling device shall be used when the temperature inside the room exceeds 80° F.	<p>The requirement has been added that a “cooling device” be mechanical and examples of mechanical cooling devices are included, e.g., an electric fan or an air conditioner. Rationale: The definition of a “cooling device” was deleted from the definition section as unnecessary since it was only used once in the regulation and the defining criteria could be included in the</p>

			text of 190 B.
190 E		The home shall have a working telephone and the telephone number shall be provided to the licensing representative, to parents and legal guardians of children placed in the home, and to children when they are away from the home.	The requirement for the home to have a working telephone has been expanded to include that the working telephone “be available to all household members for use in case of emergency.” Rationale: Change ensures that any member of the household can access the telephone in case of an emergency and requires the provider to consider placement of phones throughout the house since even young children have been known to properly access 911 in an emergency.
190 I		If the licensing representative observes conditions that indicate the need for an inspection by the local health department and makes this request of the provider, the provider shall comply.	The requirement has been changed to include that a copy of the inspection report be provided to the Department. Rationale: This improves the health and safety protections offered to children in the home and assists licensing staff in assessing the home’s continued appropriateness to provide care to children.
200 A		The provider shall have a plan for seeking assistance from police, firefighters and medical professionals in an emergency. Telephone numbers for each shall be posted next to each telephone.	Poison Control has been added to the list of police, firefighters and medical professionals. The change requires that the poison control number be posted, in addition to the other emergency numbers, next to each telephone. Rationale: Strengthens the protection offered to children and families by ensuring poison control information is easily accessible.
200 E.		The provider shall keep cleaning supplies and other toxic substances stored away from food, locked and out of the reach of children.	The requirement for providers to keep cleaning supplies, etc. locked and out of the reach of children has been changed to require that the substances be kept locked or out of the reach of children under the age of 13. Rationale: The change continues to protect young children who may accidentally ingest or cause harm with cleaning supplies and other toxic substances, but allows a provider to determine the safest way to store these materials based on the ages and supervision needs of the children in the home and individual circumstances. The Department does not anticipate that changing the requirement to “locked or out of the reach of children under the age of 13” lessens the protections of young children and this is similar to the requirements for family day homes which use “child” to mean an individual under

			the age of 13.
200 H		Radiators, oil and wood burning stoves, floor furnaces, portable electric space heaters, fireplaces, and similar heating devices used in areas accessible to children shall have protective barriers or screens.	The change requires that radiators, oil and wood burning stove, etc. that are used in areas accessible to children “under the age of 13” shall have protective barriers or screens. Rationale: This change recognizes the unique character of an independent foster home in that it may provide care to older adolescents not just young children. While still maintaining the protections for young children who are the most likely to accidentally suffer an injury, it does not require a provider who serves only older adolescents to provide potentially costly screens or barriers. This is consistent with other regulations for care that is provided in a family home, however the definition of a “child” is an individual under the age of 13.
200 J		Independent foster homes that provide care to preschool-age children shall have protective, child-resistant covers over all electrical outlets.	Changed to independent foster home that provides care to “preschool-age children or to developmentally delayed children of comparable maturity to a preschool child” shall have protective, child-resistant covers over all electrical outlets. Rationale: Strengthens the protection of children by including children who are developmentally delayed to a preschool level.
	200 K		The provider shall comply with the requirements for state regulated care facilities in relation to smoke detectors and fire extinguishers. Strengthens the protections offered to children.
	200 L		Infants shall be placed to sleep on a firm, tight-fitting mattress in a crib that meets current safety standards. To reduce the risk of suffocation, soft bedding of any kind shall not be used under or on top of the infant, including, but not limited to, pillows, quilts, comforters, sheepskins, or stuffed toys. Rationale: These measures are designed to reduce the risk of suffocation and are according to recommendations from the U.S. Consumer Product Safety Commission, the American Academy of Pediatrics, and the National Institute of Child Health and Human Development. Similar safety requirements are in place, or being instituted, in other home settings that provide care to children.

	200 M		<p>Infants shall be placed on their backs when sleeping or napping unless otherwise directed by the child's physician. If an individual child's physician contraindicates placing the child in this position, the provider shall maintain a written statement, signed by the physician, in the child's record.</p> <p>Rationale: This requirement was added to reduce the risk of suffocation according to recommendations from the U.S. Consumer Product Safety Commission, the American Academy of Pediatrics, and the National Institute of Child Health and Human Development and the Sudden Infant Death Syndrome Alliance. Similar safety requirements are being instituted in other home settings that provide care to children.</p>
	200 N		<p>Playpens, play yards and portable cribs should not be used for sleeping.</p> <p>200 N dealing with playpens, play yards and portable cribs has been deleted as redundant.</p>
	200 N		<p>Note: This section has been renumbered since the proposed standards were published.</p> <p>Bunk beds or double decker beds shall have safety rails or mechanisms in place to reduce the risk of falls. Children under age 10 shall not use the upper levels of double decker or bunk beds. Children of any age who have motor or developmental delays shall not use the upper bunk.</p> <p>Rationale: Limiting the use of bunk beds reduces the risk of falls or injury.</p>
	200 O		<p>Note: This section has been renumbered since the proposed standards were published.</p> <p>Pets shall be immunized for rabies and shall be treated for fleas, ticks, worms or other diseases as needed.</p> <p>Rationale: Strengthens the protections offered to children.</p>
	200 P		<p>Note: This section has been renumbered since the proposed standards were published.</p> <p>Providers shall instruct children on safe and hygienic procedures to follow when handling, feeding or in close proximity to</p>

			<p>animals.                  Rationale: Strengthens the protection of children by reducing the risk of animal bites and other types of injury or illness.</p>
210 A 1		<p>Information in the child’s record shall include the entrustment agreement between the provider and the parent. The entrustment agreement shall be signed on or before the date the child is placed in the home.</p>	<p>The phrase “or placing agreement” has been added. Information in the child’s record shall include the entrustment agreement, or placing agreement, between the provider and the parent. The word “entrustment” has been deleted from the second sentence to read “the agreement shall be signed on or before the date the child is placed in the home.                  Rationale: The record keeping requirements for placing agreements are identical to the existing requirements for entrustment agreements and include receiving permission for dental as well as medical care. This ensures that children have equal protection and opportunities for service regardless of the placing arrangements.</p>
210 A 7		<p>The child’s record shall include copies of the foster care plans.</p>	<p>Changed to require the provider maintain copies of individualized service plan or foster care plan, as appropriate.                  Rationale: The record keeping requirements are the same regardless of a child’s placing arrangement.</p>
210 A 9		<p>The child’s record shall include reports of major injuries, illnesses and serious incidents, such as runaways, destruction of property, assaults on others and suicide threats or attempts.</p>	<p>The child’s record shall include reports of “accidents” as well as major injuries, illnesses and serious incidents.                  Strengthens the protections offered to children and assists licensing representatives and others involved with the child determine if the child’s placement in the home is suitable.</p>
210 A 10		<p>The child’s record shall include a copy of the petition filed with the juvenile and domestic relations court if the child cannot return home with 90 days of placement and copies of all related documents received from the court.</p>	<p>Editorial changes have been made to ensure that copies of petitions, filed with juvenile and domestic relations court within the time frames designated by the use of either the entrustment agreement or the placing agreement, are maintained in the child’s record.                  Rationale: Ensures that the procedures for entrustment agreements or placing agreements are followed.</p>
210 B		<p>Within 30 days after discharge, the provider shall prepare a brief summary of the child’s behavioral, educational, and medical progress while in the home, and a statement as to whether the goals of placement were accomplished. A copy of this report shall be given to the</p>	<p>The last sentence has been changed to read a copy of this report shall be given to the parents or legal guardians within 45 days of discharge and sent to the local juvenile and domestic relations court whenever the court has approved the entrustment agreement and the foster care service plan “or a petition has been made to the court.”</p>

		parents or legal guardians within 45 days of discharge and sent to the local juvenile and domestic relations court whenever the court has approved the entrustment agreement and the foster care plan.	Rationale: The requirement for a child's discharge summary to be sent to the local juvenile and domestic relations court whenever a petition has been made to the court was added to ensure that the court has either the appropriate closure information or information to assist in determining a new placement for the child.
Forms		Initial Application for State License to Operate an Independent Foster Home for Children, 3/99; Application for Renewal of State License to Operate an Independent Foster Home for children, 3/99; and the Financial Statement for Independent Foster Homes, 3/99	These forms have been deleted from the regulation. Rationale: These forms are available from the Department's website or, the licensing representatives.

**Family impact**

*Please assess the impact of the proposed regulatory action on the institution of the family and family stability.*

---

An analysis of the proposed amendments to the existing Minimum Standards for Licensed Independent Foster Homes does not indicate a negative impact on the institution of the family or family stability. The proposed changes will strengthen the authority and rights of parents in the education, nurturing and supervision of their children by establishing guidelines that allow a parent or guardian to retain custody of a child during the child's placement in an independent foster home. The proposed changes serve to encourage self-sufficiency by allowing families to select either a placing agreement or an entrustment agreement as the option that best meets their needs when temporarily placing a child in an independent foster home.